



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title):

- **458-20-112, Value of products**
- **458-20-134, Commercial or industrial use**

Date last reviewed: **June 28, 2000**

Reviewer: **Gilbert Brewer**

Date current review completed: **September 12, 2002**

Briefly explain the subject matter of the document(s):

Rule 112 describes how the value of products is determined when the product is sold, including when the product is outside Washington and when the sales price does not indicate the true value of the product sold. It also describes how the value of products is determined when the product is extracted or manufactured for commercial or industrial use and when the product is transported out of state or delivered to another person prior to sale.

Rule 134 defines the term "commercial or industrial use" and provides clarifying examples. It explains how persons who manufacture or extract tangible personal property for their own commercial or industrial use are subject to both business and occupation and use tax on the value of the property used. In addition, the rule explains the two exemptions from use tax on articles produced for commercial or industrial use: (1) use of fuel by the extractor or manufacturer thereof and (2) property produced for use in manufacturing ferrosilicon which is subsequently used to make magnesium.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins)



(PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:



Board of Tax Appeals Decisions (BTAs):

Appeals Division Decisions (WTDs):

- **Det. No. 98-049R, 19 WTD 316 (2000)** -- when canned software is produced in Washington and leased/licensed out of state, manufacturing B&O tax applies and is measured by the gross proceeds of sales (the total realized in lease or license fees from customers).
- **Det. No. 98-157, 19 WTD 753 (2000)** -- smelting pots manufactured for commercial/industrial use were not entitled to the lower Dept. of Defense contractor valuation when the pots were used to manufacture only the raw materials from which the products eventually sold to the Dept. of Defense were made.
- **Det. No. 00-119, 20 WTD 117 (2001)** -- Where title to the shipping pallets passed to the customers, pallets upon which a manufacturer's products were shipped were part of the value of the products manufactured.

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

5. Review Recommendation:

- | | |
|---------------------|---|
| <u> </u> | Amend |
| <u> </u> | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u> X </u> | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| <u> </u> | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

There has been no change in circumstances justifying a change to either rule at this time.



6. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4